

Application No. 10/751,384  
Amendment dated July 27, 2005  
Reply to Office Action dated April 28, 2005

REMARKS

Claims 1-19 are at issue. No claims have been allowed. Claims 1-11 have been rejected under 35 U.S.C. 102(b) as anticipated by Martin, U.S. Patent 5,417,660.

Applicant notes, as a matter of interest, that the cited Martin patent was not listed by the Examiner on Form PTO-892 which was submitted to Applicant by the Examiner with the Office Action of April 28, 2005. Applicant respectfully requests the Examiner to make the Martin patent of reference.

Martin shows a syringe holder with a protective sleeve 14 including flexible supports 76 and 78 with locking tabs 50 and 52. Martin shows only two positions for his needle as shown in Figs. 2 and 3. In Fig. 2, the needle is **entirely covered** by protective sleeve 14. In Fig. 3, the needle is **completely uncovered** by protective sleeve 14. As stated in the specification, column 3, lines 50-59, when the tabs 50 and 52 have been forced out through apertures 80 and 82 by the resilient force of their respective supports 76 and 78, locking tabs 50 and 52 may be **manually depressed** to move inwardly through apertures 80 and 82 into grooves 40 and 42 to allow them to slide therein when a compressive force is applied to the nose portion 58 of needle guard 14. Further, as stated in column 4, lines 34-50, during use, the locking tabs 50 and 52 are (manually) depressed to allow the needle guard to be forced downwardly to expose the needle to permit an injection to take place. Once the injection is completed, the needle guard is forced forwardly by the tension spring to cover the needle.

As opposed to Martin '660, Applicant's claims 1 and 12, as amended, call for a sleeve which has **three** positions. In the first position the sleeve covers the major portion of the length of the needle but does not cover the entire needle; in the second position a sufficient portion of the length of the needle is exposed so that it is available for use in a medical procedure; and in a third position the sleeve covers the entire needle and is locked in position to prevent exposure of any part of the needle. Furthermore, claims 1 and 12 call for the sleeve to **automatically** move from the first position to the second position and thereafter to the third position upon insertion of the needle into a patient and for the stop member to automatically lock the sleeve into the third position upon withdrawal of the needle from the patient.

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Martin does not show the automatic movement of the sleeve. Rather, in Martin the tabs must be **manually** depressed which requires two hands to accomplish and cannot be accomplished automatically. Further, in Martin's first position (Fig. 2), the sleeve is not locked in the sense of Applicant's claimed locked position as the sleeve can be made to move into the second position by manual depression of the tabs.

Furthermore, Martin only shows two positions but not the "first" position shown by Applicant in Fig. 1 and as called for in claims 1 and 12.

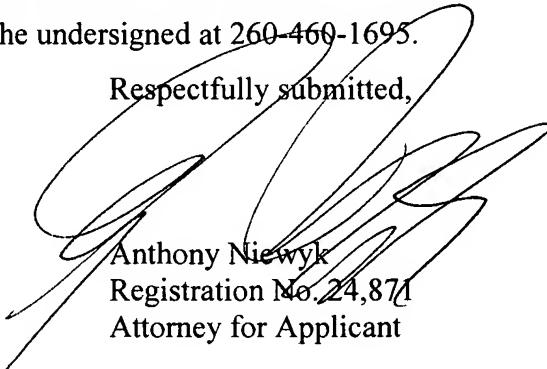
Applicant therefore respectfully submits that claims 1-19 distinguish patentably over Martin and are not obvious in view thereof.

For all of the above reasons, Applicant respectfully submits that all claims at issue are in condition for allowance and respectfully requests allowance thereof.

In the event Applicant has overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicant hereby petitions therefore and authorizes that any charges be made to Deposit Account No. 02-0385, Baker & Daniels LLP.

Should the Examiner have any questions regarding any of the above, the Examiner is respectfully requested to telephone the undersigned at 260-460-1695.

Respectfully submitted,

  
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